IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.24703 of 2008
MD.FAIYAZ
Versus

STATE OF BIHAR
- - - -

2. 4.7.2008 Heard.

The lower courts are not appreciating the facts even after they are pointed out by this Court. This case is an illustration of judicial behaviour of a Judge. In spite of being pointed out in an earlier order passed by the Court that the court below may find an element of consent while considering the prayer for bail, the same was rejected by the learned Magistrate and an Officer who was holding the office of Additional Sessions Judge. Even a person untrained in law and legal niceties could have granted bail in the present case if he could have considered the facts of the case. This could be the reason why this Court is not getting the pendency of Criminal Miscellaneous petitions under Sections 438 and 439 of the Cr.P.C. reduced.

WEB COPY
NOT OFFICIAL

The girl herself stated that she went out of her own as and when she was requested and had sexual intercourse with the petitioner under the promise that the petitioner would

marry her. If this could not be a consent then what could it be?

Let the above named petitioner be directed to be released from custody on his furnishing a bond of Rs. 3,000/-(three thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Madhubani, in Rajnagar P.S.Case No.244 of 2007.

Kanth

(Dharnidhar Jha, J.)

WEB COPY NOT OFFICIAL